In the High Court of Judicature at Madras

Dated: 04.07.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice V.DHANAPALAN

Habeas Corpus Petition No.412 of 2006

Ramesh ..Petitioner

..vs..

1. State of Tamil Nadu
   rep.by its Secretary,
   Prohibition and Excise Department,
   Fort St.George,
   Chennai-9.

2. District Magistrate &
   District Collector,
   Kancheepuram District,
   Kancheepuram. ..Respondents

Habeas Corpus Petition Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus as stated therein.

For Petitioner : Mr.A.Abdul Lathif

For Respondents : Mr.M.Babu Muthu Meeran,
Additional Public Prosecutor.

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ORDER

(Order of the Court was made by P.SATHASIVAM, J.,)

The petitioner by name Ramesh, challenges the impugned order of detention dated 29.11.2005, detaining himself, as "Goonda" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

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2. Heard both sides.

3. Learned counsel appearing for the petitioner, at the foremost, submitted that there was delay in passing the detention order and accordingly, the same is liable to be quashed. Elaborating the above said contention, the learned counsel for the petitioner pointed out that, according to the respondents, the ground occurrence happened on 16.10.2005, whereas the detention order was passed only on 29.11.2005. In the absence of information or detail, the time taken till 29.11.2005 cannot be accepted and there is no proximity to the alleged occurrence and the passing of the detention order.

4. With reference to the said contention, the learned Additional Public Prosecutor appearing for the respondents pointed out that the detenu had two previous cases to his credit, namely, first case relates to an occurrence that took place on 25.09.2005 punishable for offence under Section 379 IPC and the same is pending in D4, Otteri Police Station Crime No.197 of 2005 and the second case relates to an occurrence that took place on 07.10.2005 punishable for offence under Section 392 IPC altered into section 394 read with 120-B IPC and the same is pending in D4 Otteri Police Station Crime No.207 of 2005. He also pointed out that in the ground case, which took place on 16.10.2005, apart from the detenu, four other accused were also involved. Taking note of the seriousness of the offences involved and also four more persons involved in those cases, we are satisfied that the detention order passed on 16.10.2005 cannot be interfered with on the ground of delay.

5. Learned counsel for the petitioner submitted that there is defect in the translation which prevented the detenu from making an effective representation. Page 307 in the paper book is an order passed by the learned Judicial Magistrate No.II, Chengalpattu, which shows that

"Accused not produced. Call on 28.11.2005".

According to the learned counsel, the same was not properly translated. The translated version reads as under:

"எதிரிகள் ஆஜர்படுத்தப்படவில்லை. 28.11.2005–ந்தேதி நீட்டிக்கப்படுகிறது".

Though the Tamil translation leads to an impression that remand was extended till 28.11.2005, if we consider all the other orders extending the remand upto the date of passing of the detention order, we are satisfied that the said defect, which is available at 307 of the paper book, would not cause any prejudice to the detenu. The same is only a trivial in nature and we are satisfied that the same would not affect the interest of the detenu in any event.

6. Finally, the learned counsel appearing for the petitioner, by drawing our attention to para 5(ii) of the grounds of detention, contended

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that even though the detaining authority was very well aware that the detenu has not filed bail application till the date of passing of the detention order, it is not justified in arriving at the conclusion that there is imminent possibility of the detenue being coming out on bail. In the light of the said contention, we verified the details furnished in the said paragraph. The detaining authority, after taking note of the various orders passed by the learned Magistrate extending the remand till 12.12.2005 and taking note of the fact that though the detenu has not filed bail application, however, if he files bail application, the same would be considered and if he comes out on bail, he will indulge in such further prejudicial activities, and after satisfying himself, passed the detention order. The course adopted by the detaining authority cannot be faulted with. On the other hand, we are satisfied that the detaining authority has passed the order of detention after taking note of the antecedents of the detenu and his involvement in the ground case and compelling circumstances. Accordingly, we reject the said contention also.

7. In the light of what is stated above, we do not find any ground for interference. Accordingly, this petition fails and the same is dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
1. The Secretary to Government,
   Prohibition and Excise Department,
   Fort St.George,
   Chennai-9.

2. The District Magistrate &
   District Collector,
   Kancheepuram District,
   Kancheepuram.

3. The Superintendent,
   Central Prison,
   Chennai.
   (in duplicate for
   communication to detenu)

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4. The Joint Secretary to Govt.,
   Public (Law & Order),
   Fort St.George,
   Chennai-9.

5. The Public Prosecutor,
   High Court, Madras.

+ 1 CC To Mr. A.Abdul Rathif, Advocate SR NO. 28617

H.C.P.No.412 of 2006
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